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THOMAS WEISEL PARTNERS LLC and  
THOMAS WEISEL INTERNATIONAL  
PRIVATE LIMITED

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

THOMAS WEISEL PARTNERS LLC, a Delaware limited liability company, and THOMAS WEISEL INTERNATIONAL PRIVATE LIMITED, an Indian company.

**Plaintiffs,**

V.

BNP PARIBAS, a French corporation, BNP PARIBAS SECURITIES (ASIA) LIMITED, a Hong Kong company, and PRAVEEN CHAKRAVARTY, an individual

## Defendants.

No. C-07-6198 MHP

Action Filed: December 6, 2007

MISCELLANEOUS ADMINISTRATIVE  
REQUEST TO FILE DOCUMENTS  
UNDER SEAL PURSUANT TO L.R. 79-  
5; DECLARATION OF MICHAEL L.  
GALLO

Date: August 18, 2008  
Time: 2:00p.m.  
Place: Courtroom 15  
Judge: Hon. Marilyn Hall Patel

## INTRODUCTION

Pursuant to Civil Local Rule 79-5, Plaintiffs Thomas Weisel Partners LLC and Thomas Weisel International Private Limited (“Plaintiffs”) bring this Miscellaneous Administrative Request (“MAR”) to File Documents Under Seal pursuant to Local Rule 79-5 to protect Plaintiffs’ [Sealed] Consolidated Opposition To Defendants’ Motions To Dismiss Plaintiffs’ First Amended Complaint (“Opposition) and supporting declarations, which contain information designated as “Confidential” or “Highly Confidential-Attorneys’ Eyes Only” under the Stipulated Protective Order entered by the Court on May 22, 2008 (Docket No. 39).

## STATEMENT OF FACTS

This is an action for misappropriation of trade secrets and employee raiding brought by Plaintiffs and Defendants BNP Paribas, BNP Paribas (Asia) Limited and Praveen Chakravarty.

Defendants have filed two broadly similar motions to dismiss Plaintiffs' First Amended Complaint on jurisdictional and forum non conveniens grounds. Plaintiffs' are filing their consolidated opposition to those motions concurrently with this MAR. This MAR seeks the Court's leave to file under seal (1) declaration exhibits consisting of documents that the parties have designated confidential and or attorneys' eyes only, (2) portions of a declaration by a Thomas Weisel Partners LLC employee discussing confidential business information; and (3) portions of the opposition brief that referred to those confidential documents and confidential information.

## ARGUMENT

The Court has the inherent power to seal its records to prevent them from becoming a vehicle for an improper purpose. *Hagestad v. Tragesser*, 49 F.3d 1430, 1433-34 (9th Cir. 1995). This includes the power to issue a narrowly tailored order sealing records which contain information which is “privileged or protectable as a trade secret or otherwise entitled to protection under the law.” L.R. 79-5(a).

1           Further, the Stipulated Protective Order entered in this action states that:

2           Any party or third party who wishes to file CONFIDENTIAL MATERIALS  
 3           under seal with the Court must first move the Court to enter an order  
 4           authorizing the sealing of the particular document or portion thereof. (Docket  
 5           No. 39, Stipulated Protective Order ¶12)

6           The Stipulated Protective Order definition of “CONFIDENTIAL MATERIALS” includes  
 7           “trade secrets as defined under California Civil Code §3426.1(d) and applicable case law.”  
 8           *Id.* ¶2.

9           Plaintiffs seek leave to file the following documents under seal:

10           Intercompany Services Agreement: Plaintiffs’ [Sealed] Exhibit C to the Declaration of  
 11           Karanveer Dhillon is a copy of the Intercompany Services Agreement between TWP LLC  
 12           and TWIPL. Plaintiffs have designated this document as confidential, and seek to file it  
 13           under seal, because it contained confidential information about the relationship between  
 14           TWP LLC and TWIPL—including operational details and transfer pricing arrangements—  
 15           that Plaintiffs consider a trade secret.

16           Defendant BNP Paribas (Asia) Limited’s Supplemental Interrogatory Responses: In  
 17           discovery, Plaintiffs asked Defendant BNP Paribas (Asia) Limited (“BNPP Asia”) to provide  
 18           information about its operational structure, customer base and revenues as they related to  
 19           California investors. BNPP Asia designated its responses to Plaintiffs’ interrogatories  
 20           “Highly Confidential—Attorney’s Eyes Only.” These interrogatory responses are Plaintiffs’  
 21           [Sealed] Exhibit D to the Declaration of Michael L. Gallo in support of Plaintiffs’  
 22           Opposition. Plaintiffs are respecting BNPP Asia’s designation by filing the responses  
 23           provisionally under seal.

24           Portions of the Declaration of Don Mahon In Support Of Plaintiffs’ Opposition To  
 25           Defendants’ Motions To Dismiss The First Amended Complaint: Mr. Mahon’s declaration  
 26           contains a discussion of Thomas Weisel Partners LLC’s commission rates that Thomas  
 27           Weisel Partners considers to be confidential business information that would harm its  
 28           competitive position if it were widely disseminated. The redactions to the unsealed version  
 29           of Mr. Mahon’s declaration are narrowly tailored to protect this confidential information.

Portions Of Plaintiffs' Opposition Brief: In order to protect the confidential information contained in the documents described above, Plaintiffs also seek leave to file under seal those portions of their opposition brief that cite and/or discuss those documents. These redacted portions are narrowly tailored to protect the information in question.

## CONCLUSION

For all of the foregoing reasons, Plaintiffs respectfully request that the Court grant its MAR to File Documents Under Seal in its entirety.

DATED: July 9, 2008.

Respectfully,

GILBERT R. SEROTA  
MARK A. SHEFT  
MICHAEL L. GALLO  
HOWARD RICE NEMEROVSKI CANADY  
FALK & RABKIN  
A Professional Corporation

By: *Michael L. Gallo*  
MICHAEL L. GALLO

Attorneys for Plaintiffs THOMAS WEISEL  
PARTNERS LLC and THOMAS WEISEL  
INTERNATIONAL PRIVATE LIMITED

## DECLARATION OF MICHAEL L. GALLO

I, Michael L. Gallo, declare:

1. I am an attorney admitted to practice before the Bar of the State of California. I am an associate with the law firm of Howard Rice Nemerovski Canady Falk & Rabkin, A Professional Corporation, counsel to Plaintiffs Thomas Weisel Partners LLC (“TWP LLC”) and Thomas Weisel International Private Limited (“TWIPL”) in this action. I make this Declaration upon personal knowledge and, if called upon to testify, could and would testify competently hereto.

2. I have reviewed the attached Miscellaneous Administrative Request (“MAR”). Based on the statements in the MAR concerning Plaintiffs’ [Sealed] Consolidated Opposition To Defendants’ Motions To Dismiss Plaintiffs’ First Amended Complaint, Exhibit D to the Michael L. Gallo Declaration In Support Of Plaintiffs’ Opposition and Exhibit C to the Karanveer Dhillon Declaration In Support Of Plaintiffs’ Opposition, Plaintiffs seek to file under seal documents that contain or refer to information that has been designated by the parties as either “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” pursuant to the Stipulated Protective Order entered by the Court on May 22, 2008 (Docket No. 39).

3. Based on my knowledge of Plaintiffs' practices, the statements in the MAR concerning the nature of the information contained in (1) the Intercompany Services Agreement (Exhibit C to the Karanveer Dhillon Declaration In Support Of Plaintiffs' Opposition); and (2) the redacted portions of the Declaration of Don Mahon In Support Of Plaintiffs' Opposition To Defendants' Motions To Dismiss The First Amended Complaint: are true and correct.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 9<sup>th</sup> day of July 2008 at San Francisco, California

MICHAEL L. GALLO